

## **Summary of Proposed Revisions for NR 216**

The Department is proposing to revise NR 216 to conform with federal regulations including:

- defining which municipalities must apply for storm water permits,
- establishing associated municipal permit requirements,
- lowering the construction permit threshold to one acre of disturbance from five acres,
- allowing for the use of a local program to issue construction site permit coverage on behalf of the DNR,
- establishing a system for industrial facilities to certify that they do not meet criteria that would require them to obtain a storm water permit and
- revising the current storm water permit fee system from a flat fee into a graduated fee structure to collect revenue as appropriate to regulate both small and large municipalities and construction sites.

The rule contains three subchapters, one each for municipal, industrial and construction site permits. The major elements of each subchapter identify permit applicability, application process, permit requirements and fee structure.

### **Changes to Subchapter I – Municipal Storm Water Discharges**

- A proposed new municipal application process shortens the length of time needed to apply for a permit from the previous 3-4 years to 90 days with the use of a general permit.
- Proposed permit requirement changes conform to the federal Storm Water Phase II requirements. Changes are proposed for the following six minimum measures:
  - Public education and outreach
  - Public involvement and participation
  - Illicit discharge detection and elimination
  - Construction site pollutant control
  - Post-construction site storm water management
  - Pollution prevention
- The applicability criteria for permitting MS4s was expanded and will result in an additional 180 permitted MS4s in the next 2 years (250 total).
- Most municipalities will receive general permit coverage rather than individual permit coverage.
- The proposed fee structure will change from a flat fee of \$5,000 or \$10,000 to an adjusted fee based on the populations of incorporated areas. The proposed fees would range from \$50 for populations less than 1,000 to \$25,000 for populations greater than 400,000.

### **Changes to Subchapter II – Industrial Storm Water Discharges**

- No permit would be needed for industries that can certify to DNR that their facilities have no exposure of storm water to industrial materials or activities that could contaminate storm water. Certification would need to occur every five years.

- The Tier 3 permit is proposed to be discontinued as the "no exposure" exclusion supplants it.
- Fees are proposed to be increased from \$100 to \$135 and from \$200 to \$260 representing a 2.65% annual increase over the ten years since the fees were established in 1994.
- An exclusion under the Intermodal Surface Transportation Efficiency Act (ISTEA) that postponed NPDES permit application deadlines for some storm water discharges associated with industrial activity at facilities that are owned or operated by municipalities is removed. All industrial facilities listed within subchapter II of NR 216, whether municipally or privately owned, will require permit coverage unless they can certify that they have no exposure of materials or operations that could contaminate storm water.

### **Changes to Subchapter III – Construction Site Storm Water Discharges**

- The land disturbance threshold for permit coverage drops from five acres to one acre.
- Municipalities may elect to become authorized to grant construction site permit coverage on behalf of DNR.
- The fee structure is proposed to be changed from a flat fee of \$200 to a range of \$140 to \$350 based on the amount of land disturbance.